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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,616	06/30/2001	Tyler A. Lowrey	42390P11412	7217

21906 7590 07/16/2003

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HOUSTON, TX 77024

EXAMINER

PERT, EVAN T

ART UNIT	PAPER NUMBER
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2829

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/896,616

Applicant(s)

LOWREY, TYLER A.

Examiner

Evan Pert

Art Unit

2829

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 9, 10 and 12 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 7 and 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Harshfield (U.S. 6,420,725 B1).

Regarding claim 7, Harshfield discloses an apparatus comprising an electrical contact (42) on a substrate (60); a dielectric (50) on (i.e. touching which is "on") the contact (42), the dielectric (50) having an opening (52) exposing the contact (i.e. the top surface of the contact), wherein the dimensions of the opening (52) expose a first contact area of the contact (i.e. the entire top surface of the contact 42), the apparatus further comprises a spacer (44) within the opening (52) on the contact (42), the spacer (44) exposing a second area of the contact having dimensions less the first contact area (per title visible in cover figure) and a conductor electrically coupled to the programmable material (e.g. 62).

Regarding claim 9, Harshfield discloses a diffusion "barrier material" as beneficial for chalcogenide (col. 5, lines 5-6).

Regarding claim 10, Harshfield discloses a signal line in electrical contact with the contact and an isolation device between the contact and the signal line (col. 3, line 34).

Regarding claim 12, Harshfield discloses that the programmable material includes chalcogenide (col. 4, line 56).

Allowable Subject Matter

3. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Applicant's claimed apparatus can be distinguished from the apparatus disclosed by Harshfield in that both an aperture in a dielectric and at least part of the dielectric having the aperture are both "over" the contact since Harshfield's apparatus only has the aperture over the contact, but not the dielectric having the aperture.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evan Pert whose telephone number is 703-306-5689. The examiner can normally be reached on M-F (7:30AM-3:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kammie Cuneo can be reached on 703-308-1233. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0956.

ETP

July 8, 2003


EVAN PERT